

APPEAL NO. 021808  
FILED SEPTEMBER 5, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 22, 2002. The hearing officer signed a Texas Workers' Compensation Commission (Commission) Order for Attorney's Fees on June 28, 2002, approving 10.30 hours of the 23.70 hours requested attorney's fees for the appellant (attorney). The attorney appeals and requests that the firm be awarded \$1127.66 in additional attorneys fees and expenses. There is no response from either the respondent (carrier) or the respondent (claimant).

DECISION

Affirmed in part, reversed and rendered in part.

We review attorney's fee cases under an abuse of discretion standard. Texas Workers' Compensation Commission Appeal No. 951196, decided August 28, 1995. The documentation in the case file includes printouts from the Attorney Fee Processing System (AFPS) with the justification text set forth by the attorney. In the "Formal Resolution: [hearing]" section of the AFPS for itemized listings of attorney's fees from April 9, 2002, through April 19, 2002, and April 22, 2002, show that the hearing officer determined that the requested fees exceeded the guidelines. The hearing officer explained in the log text that "THIS CASE WAS NEITHER LEGALLY NOR FACTUALLY COMPLEX, AND THEREFORE DOES NOT WARRANT EXCEEDING THE COMMISSION'S GUIDELINES." We cannot agree that the hearing officer abused her discretion in determining that the case was not of such a nature that fees in excess of the guidelines were warranted. As such we affirm, the denial of the 11.3 hours of requested fees.

In regard to the other disapproved fees listed in the "Formal Resolution: [hearing] section" there are three entries for a "Draft Letter" performed by a paralegal on April 30, 2002. One of those requests for .8 hours that was "Approved Automatically" and the other two entries for .8 hours were disapproved for "Multiple Reasons." In its justification text, the carrier states that "PARALEGAL SUPPORT THEN DRAFTED LETTERS TO 3 DIFFERENT MEDICAL PROVIDERS RE:CLMT'S MEDICAL RECORDS" to justify attorney's fees for each of the three "draft letter" entries on April 3, 2002. We note that there is no entry by the hearing officer in the log text to indicate why the request for the two letters was denied and the order reflects that those two requests were denied for "multiple reasons." We have previously stated that "multiple reasons" is not a sufficient explanation for denial of fees and that such a notation is "unacceptable and does not allow a meaningful review." Texas Workers' Compensation Commission Appeal No. 950988, decided August 4, 1995. In view of the carrier's justification text, we find that the hearing officer erred in denying the request for fees associated with drafting the letters to providers for medical records. Accordingly, an

additional 1.6 hours of paralegal time on April 3, 2002, will be approved. We believe that the hearing officer also erred in denying .5 hours of attorney time for travel to attend the hearing. There is no evidence that the 4.0 hours requested was for anything other than the actual time spent traveling. As such, the hearing officer abused her discretion in denying the .5 hours of travel time.

In regard to the disapproved expenses listed in the "Expense" section, there are five itemized listings for expenses from April 3, 2002, through April 29, 2002. The five entries reflect that the expense of "Cost of Records" was disapproved for "Service Provided Unclear." Expenses associated with obtaining records is specifically recognized in Tex. W.C. Comm'n , 28 TEX. ADMIN. CODE § 152.5(b)(3) (Rule 152.5(b)(3)) as an allowable expense. Thus, the hearing officer erred in denying those expenses.

We reverse the Commission's Order in regard to the 1.6 hours denied for "multiple reasons," and render a new decision that for 1.6 hours of paralegal time were reasonable, necessary, and performed on April 3, 2002, and that those fees are approved at the \$50 paralegal hourly rate for total of \$80.00. In addition, we reverse the denial of .5 hours of travel time at \$115.00, for a total of \$57.50.

We reverse the Commission's order denying all of the requested expenses for "service provided unclear," and render a new decision that expenses in the amount of \$338.16 were allowable expenses pursuant to Rule 152.5(b)(3).

The carrier is awarded additional fees in the amount of \$137.50 and expenses in the amount of \$338.16. The denial of the balance of the requested fees, the 11.3 hours that were denied as in excess of the guidelines and unreasonable, is affirmed.

The true corporate name of the insurance carrier is **AMERICAN GUARANTEE & LIABILITY** and the name and address of its registered agent for service of process is

**CT CORPORATION  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge